

EMPLOYER'S RESPONSIBILITIES IN ADDRESSING WORKPLACE GBV

WHAT LEGAL OBLIGATIONS DO EMPLOYERS HAVE IN PREVENTING AND ADDRESSING GBV?

In Ukraine, it is established at the legislative level that women and men are provided with equal rights and opportunities in employment, job promotion, professional development and retraining.

Any discrimination in the field of labor, direct or indirect limitation of the rights of employees based on race, color, political, religious and other beliefs, sex, ethnic, social and foreign origin, age, state of health, disability, gender identity, sexual orientation, suspicion or presence of HIV/AIDS, family and property status, etc.[1] is prohibited.

Since November 2022, mobbing has been also prohibited by law[2].

The key international agreements, which provide a general framework for the prevention and eradication of violence and harassment at work, including GBV and harassment, are International Labor Organization (ILO) Convention № 190 on the Elimination of Violence and Harassment in the World of Work and the accompanying ILO Recommendation № 206 (currently, the specified international legislation have not been ratified by Ukraine, and therefore they are of a recommendation nature).

In particular, ILO Convention № 190 considers violence and harassment as a single composite concept that covers **"a number of unacceptable behaviors and practices or the threat of their usage"**, and not as a limited or uniform definition of what exactly constitutes violence and/or harassment in the workplace. This approach provides the flexibility needed to cover different manifestations of violence and harassment, including new forms that emerge over time. It also allows the concept of "violence and harassment" to cover a wide range of terms used in the legislation of different countries to describe the same or similar phenomena.



WHAT ARE THE EMPLOYER'S RESPONSIBILITIES REGARDING THE PREVENTION AND COMBAT GBV?

In Ukraine, the main obligations of the employer to prevent and combat GBV are enshrined in the Labor Code of Ukraine and the Law of Ukraine "On Ensuring Equal Rights and Opportunities for Women and Men". Additionally, employers may implement relevant provisions on preventing and combating violence in internal documents (e.g. policies, regulations, codes of conduct, etc).

[1]Art. 21 of the Labor Code of Ukraine.

[2]Art. 22 of the Labor Code of Ukraine: "Mobbing (harassment) - systematic (repeated) long-term intentional actions or inaction of the employer, individual employees or groups of employees of the labor team, which are aimed at humiliating the honor and dignity of the employee, his/her business reputation, including for the purpose acquiring, changing, or terminating his/her labor rights and obligations, manifested in the form of psychological and/or economic pressure, in particular with the use of electronic communications, creating a tense, hostile, offensive atmosphere for the employee, including one that makes him/her underestimate his/her professional suitability.". This norm also defines possible forms of psychological and economic pressure.

Employer is obliged to:

- ✓ Create working conditions on an equal basis (without favoring any gender / sex)
- ✓ Provide women and men with the opportunity to combine work with family responsibilities
- ✓ Provide equal pay for equal qualifications and equal working conditions
- ✓ Take measures to prevent and protect against cases of sexual harassment and other manifestations of GBV (these can be any measures, for example, of an informational (trainings, webinars) and/or administrative (dismissal) nature), etc.

Employers are prohibited:

- ⊘ In job announcements (advertisements) offer work only to a certain sex (with the exception of specific work that can be performed exclusively by certain persons (for example, crane operator, engineer and technician engaged in maintenance of aircraft (helicopters), borehole driller, sheet metal worker, etc.) or specify other discriminatory features[3])
- ⊘ Make different requirements, giving preference to one of the sexes
- ⊘ Require information from people about their personal life (marital status), future childbearing plans, etc.

WHAT ARE THE CONSEQUENCES FOR NON-COMPLIANCE?

Employers are liable according to the law, the type of which depends on the type of violation.

Employers may be subject to the following types of liability:

- Compensate property and/or moral damage to a person
- For committing GBV without causing bodily injury, threats or persecution - a fine from 170 UAH up to 340 UAH, or community service from 30 to 40 hours, or administrative arrest (detention in specially designated places in the police) for up to 10 days. If GBV is committed repeatedly within a year - a fine from 340 UAH to 680 UAH, or community service from 40 to 60 hours, or administrative arrest for up to 15 days
- In case of mobbing, the head is fined from 1,700 UAH to 3,400 UAH, or community service from 30 to 40 hours. In the case of repeated mobbing within a year - a fine of 3,400 UAH to 6,800 UAH, or community service from 40 to 60 hours
- In the case of GBV with signs of a crime (for example, in the case of inflicting bodily harm, beatings, sexual violence), criminal liability is provided in the form of a fine, public or correctional labor, restriction or imprisonment for a certain term.

[3]This ban was introduced at the legislative level in 2022 and is aimed at combating gender discrimination. The relevant violations are punishable by a fine of 10 minimum wages.

WHAT ARE THE POSSIBLE ACTIONS OF AN EMPLOYEE IN CASE OF COMMITTING GBV AGAINST HIM?

Employee can protect his/her rights in the following ways:

- Terminate the employment contract at will if the employer does not comply with the labor legislation, the terms of the employment contract or engages in mobbing, etc
- Demand from the employer a temporary, for up to 2 months, transfer to remote work (the employer may refuse if remote work is not possible, due to the employee's job function)
- Make a statement to the police to prosecute a person who commits GBV
- Make a complaint to the State Labor Service or the Ukrainian Parliament Commissioner for Human Rights
- Apply to the court, for example, with claims for compensation for damage (material and/or moral).

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